free from dower must convey to the prior purchaser who did not secure the wife's signature, upon receiving the purchase price or such portion thereof as shall put him *in statu quo*. *Saldutti* v. *Flynn*, 72 N. J. Eq. 157, 65 Atl. 246; *Mansfield* v. *Hodgdon*, 147 Mass. 304, 17 N. E. 544. However, he has in effect purchased for value a portion of the rights in the freehold to which an instant before the conveyance the prior purchaser was not entitled in law or equity. *Mix* v. *Baldwin*, 156 Ill. 313, 40 N. E. 959; *Richmond* v. *Robinson*, 12 Mich. 193. And therefore there is reason to revive the incumbrance and give him the value of his bargain to that extent. On the other hand inchoate dower, as such, cannot be aliened. *Mason* v. *Mason*, 140 Mass. 63, 3 N. E. 19; *Witthaus* v. *Schack*, *supra*. See LAMBERT, DOWER, p. 26. But the husband is often compelled to convey his interest alone, leaving the dower in the wife. *Davis* v. *Parker*, 14 Allen (Mass.) 94. See 25 HARV. L. REV. 731. To this extent, at least, the policy against allowing the fee and the inchoate dower interest to be held by parties who are strangers to each other has never controlled. Nor does it seem too much against policy for the court in the principal case to revive this anomalous interest in the subsequent purchaser, at least in jurisdictions such as Kansas, where there have been indications of a liberal attitude toward inchoate dower. See *Munger* v. *Baldridge*, 41 Kan. 236, 21 Pac. 159. The abatement of the purchase price granted in the principal case would be refused by some courts in a suit against the husband, because of the tendency to coerce the wife. *Reisz's Appeal*, 73 Pa. 485; *Bride* v. *Reeves*, 36 App. D. C. 476. But no such difficulty arises here, and in the manner of allowing compensation the court also follows the weight of authority, computing it according to the theory of probabilities instead of giving indemnity to the purchaser by reserving until the wife's death the value of vested dower, subject to interest. *Walker* v. *Kelly*, 91 Mich. 212, 51 N. W. 934; *Davis* v. *Parker*, *supra*; *Sanborn* v. *Hookin*, 20 Minn. 178; see 25 HARV. L. REV. 731.

TRADE UNIONS — PUNISHMENT OF OUTSIDE PARTY — SUIT TO RESTRAIN LABOR UNION FROM COMPELLING MEMBERS NOT TO TAKE EMPLOYMENT BY THREATENING FINE. — The plaintiff, having entered into a contract with certain members of defendant union, which comprised practically all the musicians of Rhode Island available, refused to go on with the contract, claiming that unsatisfactory music was furnished. He then arranged with other members of defendant union to play for him, whereupon the directors of the union having heard both sides of the dispute with the first orchestra and decided that the plaintiff had wrongfully broken his contract, acted in accordance with a by-law of the union and forbade all union members to enter or continue in the employ of the plaintiff. The lower court granted a preliminary injunction restraining the defendants from interfering with the business of the plaintiff or attempting to collect any fines from its members by way of enforcing the order of the directors. *Held*, that the injunction be dissolved. *Rhodes Brothers* v. *Musicians' Protective Union Local, etc.*, 92 Atl. 641 (R. I.).

For a discussion of the use of fines and other disciplinary measures to enforce a union by-law for the punishment of an outsider, see NOTES, p. 696.

TRUSTS — CREATION AND VALIDITY — BEQUEST ON SECRET UNDERSTANDING: LIABILITY OF LEGATEE TO TRANSFER TAX. — The testator bequeathed his personalty to his brother, who had agreed to distribute it in accordance with the testator's wishes as expressed in an unattested memorandum which was not referred to in the will. The memorandum, the contents of which were not communicated to the legatee until the testator's death, directed the money to be given to certain charities. Without having made a full distribution the legatee died, and left the property to the defendant under a similar agreement to distribute in accordance with the memorandum. The state now seeks to

tax the defendant under the Inheritance Tax Law. ILL. REV. STAT., c. 120, § 366. *Held*, that the defendant is not taxable. *People* v. *Schaefer*, 107 N. E. 617 (Ill.).

When a testator leaves property to a legatee with the informal understanding that he is to hold in trust for certain beneficiaries, it would be a fraud for the legatee to keep for himself, and the courts accordingly raise a constructive trust in favor of the beneficiaries to prevent unjust enrichment. *In re Fleetwood*, 15 Ch. D. 594; *Trustees of Amherst College* v. *Ritch*, 151 N. Y. 282, 45 N. E. 876; *Lawrence* v. *Oglesby*, 178 Ill. 122, 52 N. E. 945. As it is impossible to restore the *statum quo*, and enable the testator to do over again properly what he tried to do improperly, the chief argument for imposing a resulting trust when an express trust fails with the settlor living, has no application. See 20 HARV. L. REV. 549, 554. Where the legatee, however, is ignorant of the names of the *cestuis* until the testator's death, the English courts, at least, have refused to enforce the trust, saying that it would violate the Wills Act to ascertain the names by an unattested document. *In re Boyes*, 26 Ch. D. 531. *Cf. McCormick* v. *Grogan*, L. R. 4 H. L. 82; *Walgrave* v. *Tebbs*, 2 K. & J. 313. But see *Gore* v. *Clarke*, 37 S. C. 537, 16 S. E. 614. But even the English courts have not hesitated to examine an unattested document when the question was what part of the property was held in trust. *In re Maddock*, [1902] 2 Ch. 220. And irrespective of the enforceability of the trust, it would seem that the legatee should at least be permitted to carry out the testator's wishes. *In re Dean*, 41 Ch. D. 552; see 28 HARV. L. REV. 237, 263. The question remains whether the legatee should be subject to the Illinois inheritance tax, which exempts beneficial interests passing by will or intestacy to charities. ILL. REV. STAT., c. 120, § 366. The New York court has held in a similar case that it is the constructive trustee to whom the beneficial interest passes by will. *In re Edson*, 38 App. Div. 19, 56 N. Y. Supp. 409; aff'd 159 N. Y. 568, 54 N. E. 1092. See N. Y. CONSOL. LAWS, TAX LAW, §§ 220, 221. But the charitable *cestuis* do take beneficially by virtue of an imperfect right arising before the testator's death, although not strictly under the will, and it seems a preferable construction, therefore, to hold that the property passes to them free of tax.

VENDOR AND PURCHASER — REMEDIES OF PURCHASER — MERGER OF EXECUTORY CONTRACT OF SALE BY ACCEPTANCE OF DEED. — A vendor covenanted to convey land by a deed of special warranty, clear of all incumbrances. The purchaser paid over the purchase money and accepted a deed which contained only special warranty and no general covenant against incumbrances. The land having been sold on execution to satisfy an unknown preëxisting incumbrance, the purchaser brings this action to recover back the purchase money. *Held*, that the purchaser can recover. *White* v. *Murray*, 218 Fed. 933 (Dist. Ct., W. D. Pa.).

There is no implied warranty of title in sales of real property. It follows that a vendor selling land is not responsible for the goodness of his title beyond the extent of the covenants in his deed. *Clare* v. *Lamb*, L. R. 10 C. P. 334; *Union Pacific Ry. Co.* v. *Barnes*, 64 Fed. 80; see MAUPIN, MARKETABLE TITLE, 2 ed., § 267. And by the weight of authority, in the absence of fraud or mistake, even express promises to give good title, whether written or oral, are held to be merged in the final acceptance of a deed, on the principle that the deed is the instrument in which the last agreement of the parties as to the risk of defective title is to be found. *Whittemore* v. *Farrington*, 76 N. Y. 452; *Bryan* v. *Swain*, 56 Cal. 616; *Porter* v. *Cook*, 114 Wis. 60, 89 N. W. 823; *Fuson* v. *Chestnut*, 33 Ky. L. Rep. 249, 109 S. W. 1192; see MAUPIN, MARKETABLE TITLE, 2 ed. §§ 181, 269. Some cases, however, are very liberal in admitting extrinsic evidence to determine whether the deed was accepted in discharge